

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Robert W. Flohr,

Debtor;

Mary C. Flohr,

Joint Debtor.
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HEARING DATE: **May 30, 2024**
HEARING TIME: **09:30 AM**
LOCATION: **Central Islip, Courtroom 860**

Case No.: 8-24-70760-reg

Chapter 13

Judge: Hon. Robert E. Grossman, U.S.B.J.

**OBJECTION TO CONFIRMATION
OF DEBTORS' CHAPTER 13 PLAN**

U.S. Bank Trust National Association, Not In Its Individual Capacity But Solely As Owner Trustee For RCAF Acquisition Trust (the "Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtors' Chapter 13 Plan, and states as follows:

1. Debtor, Robert W. Flohr, and Joint Debtor, Mary C. Flohr ("Debtors"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on February 27, 2024.
2. Secured Creditor holds a security interest in the Debtors' real property located at 644 Ardsley Blvd, Garden City South, NY 11530, by virtue of a Consolidation, Extension and Modification Agreement ("CEMA") recorded on February 19, 2004 in Book M26033 at Page 1 of the Public Records of Nassau County, NY. Said CEMA secures a Note in the amount of \$375,000.00.
3. The Debtors filed a Chapter 13 Plan (the "Plan") on February 27, 2024 (Doc. No. 6).
4. It is anticipated that Secured Creditor's claim will show the pre-petition arrears due to be not less than \$74,890.12 (Proof of Claim due by May 7, 2024). Debtors' Plan proposes to pay only \$72,757.05. Secured Creditor objects to any plan which proposes to pay it anything less than \$74,890.12 as the pre-petition arrearage over the life of the plan. Therefore, the Plan is not in compliance with the requirements of 11 U.S.C. §§ 1322(b) (3) and (b)(5) and 1325(a)(5) and cannot be confirmed. Secured Creditor objects to any

proposed Plan that fails to provide for the total amount of pre-petition arrears due and owing to Secured Creditor.

5. As cited above, the Plan must cure a default owed to a creditor that holds a secured claim within a reasonable time. The Plan does not cure the default under the Note and held by Secured Creditor, accordingly, the Plan fails to meet the standards for confirmation under 11 U.S.C. § 1325(a) (1). Therefore, Secured Creditor objects to confirmation of the Plan.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtors' Plan, and for such other and further relief as the Court may deem just and proper.

Dated: April 22, 2024

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 22, 2024, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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Robert W. Flohr
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Mary C. Flohr
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Date: April 22, 2024

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